NOTIFICATION. 822

No. L.D. 821—Legis. 3-52-8, dated Bangalore, 25th July 1952.

Ordered that the Prevention of Corruption (Second Amendment) 1952 (Bill No. 72 of 1952) and the Criminal Law Amendment Bill, 1952 (Bill No. 71 of 1952) which were introduced in the House of the People on 3rd July 1952 and published in the *Gazette of India*, Part II, Section 2, dated the 12th July 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

House of the People

The following Bills were introduced in the House of the People on 3rd July, 1952 :—

BILL NO. 72 OF 1952

A Bill further to amend the Prevention of Corruption Act, 1947.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Prevention of Corruption (Second Amendment) Act, 1952.

2. Amendment of section 3, Act II of 1947.—In section 3 of the Prevention of Corruption Act, 1947 (hereinafter referred to as the principal Act),—

(*a*) after the word and figures "section 165" the words, figures and letter "or section 165A" shall be inserted; and

(*b*) the proviso shall be omitted.

3. Amendment of section 4, Act II of 1947.—The proviso to section 4 of the principal Act shall be omitted and the said section shall be numbered as sub-section (*1*) thereof and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, namely:—

"(*2*) Where in any trial of an offence punishable under section 165A of the Indian Penal Code (Act XLV of 1860), it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed unless the contrary is proved that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the Indian Penal Code or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the court may decline to draw the presumption referred to in either of the said sub-section, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn."

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4. Amendment of section 5, Act II of 1947.—For sub-section (*4*) of section 5 of the principal Act, the following sub-section shall be substituted namely :—

"(*4*) The provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this section, be instituted against him."

5. Insertion of new section 5A, in Act II of 1947.—After section 5 of the principal Act, the following section shall be inserted, namely:—

"5A. *Investigation into cases under this Act.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no police officer below the rank—

(*a*) in the presidency towns of Madras and Calcutta, of an assistant commissioner of police.

(*b*) in the presidency town of Bombay, of a superintendent of police, and

(*c*) elsewhere, of a deputy superintendent of police,

shall investigate any offence punishable under section 161, section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or under sub-section (*2*) of section 5 of this Act, without the order of a presidency magistrate or a magistrate of the first-class, as the case may be, or make any arrest therefor without a warrant:

Provided that a police officer of the Delhi Special Police Establishment, not below the rank of an inspector of police, who is specially authorised by the Inspector-General of Police of that Establishment may, if he has reasons to believe that, on account of the delay involved in obtaining the order of a magistrate of the first-class, any valuable evidence relating to such offence is likely to be destroyed or concealed, investigate the offence without such order; but in every case where he makes such investigation, the inspector shall, as soon as may be, send a report of the same to a magistrate of the first-class, together with the circumstances in which the investigation was made."

6. Amendment of section 6, Act II of 1947.—Section 6 of the principal Act shall be numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Where for any reason whatsoever any doubt arises whether the previous sanction as required under sub-section (*1*) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed."

STATEMENT OF OBJECTS AND REASONS

The Government of India set up a Committee of Members of Parliament under the chairmanship of Dr. Pakshi Tek Chand to review the working of the Special Police Establishment and to make recommendations for the improvement of the laws relating to bribery and corruption. The amendments proposed in the Bille are based on the recommendations of that Committee. The

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amendments are intended to clarify some doubts about the application of certain sections and to rectify certain drafting omissions in the Act. The Bill also deals with some other minor difficulties disclosed by the working of the Act.

NEW DELHI; KAILAS NATH KATJU.

The 6th May, 1952.

BILL NO. 71 OF 1952.

A Bill further to amend the Indian Penal Code and the Code of Criminal Procedure 1898, and to provide for a more speedy trial of certain offences.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Criminal Law Amendment Act, 1952.

2. Amendment of section 165, Act XLV of 1860.—In section 165 of the Indian Penal Code (hereinafter referred to as the principal Act) for the words "simple imprisonment for a term which may extend to two years" the words "imprisonment of either description for a term which may extend to three years" shall be substituted.

3. Insertion of new section 165A in Act XLV of 1860.—After section 165 of the principal Act, the following section shall be inserted, namely :—

"165A. *Punishment for abetment of offences defined in section 161 or section 165.*—Whoever abets any offence punishable under section 161 or section 165, whether or not that offence is committed in consequence of the abetment, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

4. Amendment of section 164, Act V of 1898.—In sub-section (*1*) of section 164 of the Code of Criminal Procedure, 1898, after the words "under this Chapter" the words "or under any other law for the time being in force" shall be inserted.

5. Amendment of section 337, Act V of 1898.—(*1*) In section 337 of the Code of Criminal Procedure, 1898,—

(*a*) in sub-section (*1*), after the words "the Indian Penal Code, namely, sections" the figures and letter "161, 165, 165A" shall be inserted;

(*b*) after sub-section (*2A*), the following sub-section shall be inserted, namely :—

"(*2B*) In every case where the offence is punishable under section 161 or section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947), and where a person has accepted a tender of pardon and has been examined under sub-section (*2*), then, notwithstanding anything contained in sub-section (*2A*), the magistrate shall, without making any further inquiry, send the case for trial to the court of the special judge appointed under the Criminal Law Amendment Act, 1952."

(2) The amendments made by sub-section (*1*) shall remain in force for a period of two years from the commencement of the Criminal Law Amendment Act, 1952.

6. Power to appoint special judges.—(*1*) The State Government may, by notification in the Official Gazette, appoint as many special judges as may be

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necessary for such area or areas as may be specified in the notification to try the following offences, namely :—

(*a*) an offence punishable under section 161, section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947) ;

(*b*) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (*a*).

(*2*) A person shall not be qualified for appointment as a special judge under this Act unless he is, or has been, a sessions judge or an additional sessions judge under the Code of Criminal Procedure, 1898 (Act V of 1898).

7. Cases triable by special judges.—(*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) or in any other law offences specified in sub-section (*1*) of section 6 shall be triable by special judges only.

(*2*) Every offence specified in sub-section (*1*) of section 6 shall be tried by the special judge for the area within which it was committed, or where there are more special judges than one for such area, by such one of them as may be specified in this behalf by the State Government.

(3) When trying any case, a special judge may also try any offence other than an offence specified in section 6 with which the accused may, under the Code of Criminal Procedure, 1898, be charged at the same trial.

8. Procedure and powers of special judges.—(*1*) A special judge may take cognizance of offences without the accused being committed to him for trial, and in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of warrant cases by magistrates.

(*2*) A special judge may, with a view to obtaining the evidence of any person suppose to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof ; and any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code of Criminal Procedure, 1898, be deemed to have been tendered under section 338 of that Code.

(*3*) Save as provided in sub-section (*1*) or sub-section (*2*), the provisions of the Code of Criminal Procedure, 1898, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special judge ; and for the purposes of the said provisions, the court of the special judge shall be deemed to be a court of sessions trying cases without a jury or without the aid of assessors and the person conducting a prosecution before a special judge shall be deemed to be a public prosecutor.

(4) A special judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

9. Appeal and revision.—The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXXI and XXXII of the Code of Criminal Procedure, 1898 (Act V of 1898) on a High Court as if the court of the special judge were a court of sessions trying cases without a jury within the local limits of the jurisdiction of the High Court.

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STATEMENT OF OBJECTS AND REASONS

The Government of India set up a Committee of Members of Parliament under the chairmanship of Dr. Bakhshi Tek Chand to review the working of the Special Police Establishment and to make recommendations for the improvement of the laws relating to bribery and corruption. The amendments proposed in the Bill are based on the recommendations of that Committee. They seek to make the offering of bribe a substantive offence by itself instead of, as at present, a mere abetment. The maximum punishment for an offence under section 165, I.P.C. (acceptance by a public servant of a valuable thing without consideration from persons concerned in proceeding or business transacted by him) is considered to be light and is proposed to be raised to that prescribed for an offence under section 161, I.P.C., *viz.* acceptance of a bribe. In view of certain practical difficulties in the prosecution of cases relating to bribery and corruption, the scope of section 337 (1) of the Cr. P.C. for tendering pardon to accomplices has been proposed to be extended to bring such offences within its purview. A special forum for trial is also proposed for such cases in order to eliminate delay; this particular amendment has been given a limited life. Opportunity has also been taken to extend the applicability of section 164, Cr. P.C., to Presidency towns.

KAILAS NATH KATJU.

NEW DELHI;
The 6th May 1952

M. N. KAUL,
Secretary.

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